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Code: Section:

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INSURANCE CODE - INS

DIVISION 1. GENERAL RULES GOVERNING INSURANCE [100 - 1879.8] (*Division 1 enacted by Stats. 1935, Ch. 145.*)

PART 2. THE BUSINESS OF INSURANCE [680 - 1879.8] (*Part 2 enacted by Stats. 1935, Ch. 145.*)

CHAPTER 5. Production Agencies [1621 - 1758.993] (*Chapter 5 repealed and added by Stats. 1959, Ch. 4.*)

ARTICLE 6. License Qualifications [1666 - 1672] (*Article 6 added by Stats. 1959, Ch. 4.*)

1666. Upon the filing of an application for a license in accordance with Article 4 of this chapter, the commissioner may make an investigation and require the filing of supplementary documents, affidavits, and statements as may be necessary to obtain a full disclosure of information as will aid the commissioner in determining whether the prerequisites for the license have been met. If the applicant makes a showing satisfactory to the commissioner that the applicant meets all prerequisites, the commissioner, if the applicant is eligible, may issue a certificate of convenience, and upon the applicant meeting any applicable examination requirements may issue a permanent license.

(Amended by Stats. 2021, Ch. 133, Sec. 7. (SB 272) Effective July 23, 2021.)

1666.5. (a) (1) Notwithstanding any other provision of law, the commissioner shall at the time of issuance or renewal of any license under this chapter or Chapter 6 (commencing with Section 1760), Chapter 7 (commencing with Section 1800), or Chapter 8 (commencing with Section 1831) require that any license applicant or licensee provide its federal employer identification number if the license applicant or licensee is a partnership, or the social security number of the license applicant or licensee for all others, except as provided in paragraph (2).

(2) The commissioner shall require either a social security number or an individual taxpayer identification number if the license applicant or licensee is an individual applying for or renewing a license under this chapter.

(b) A license applicant or licensee failing to provide the federal identification number, social security number, or individual taxpayer identification number shall be reported by the commissioner to the Franchise Tax Board and, if failing to provide after notification pursuant to paragraph (1) of subdivision (b) of Section 19528 of the Revenue and Taxation Code, shall be subject to the penalty provided in paragraph (2) of subdivision (b) of Section 19528 of the Revenue and Taxation Code.

(c) (1) The commissioner shall, upon request of the Franchise Tax Board, furnish to the board all of the following information with respect to every license applicant or licensee:

(A) License applicant's or licensee's name.

(B) Address or addresses of record.

(C) Federal employer identification number if the entity is a partnership or owner's name and social security number for all others.

(D) Type of license.

(E) Effective date of license or renewal.

(F) Expiration date of license.

(G) Whether license is active or inactive, if known.

(H) Whether license is new or a renewal.

(2) Notwithstanding paragraph (1), the commissioner shall, upon request of the Franchise Tax Board, furnish to the board either a social security number or an individual taxpayer identification number for individuals licensed under this chapter.

(d) For the purposes of this section:

(1) "License" includes a certificate, registration, or any other authorization needed to engage in the insurance business regulated by this code.

(2) "License applicant" means any individual or entity, other than a corporation, in the process of obtaining a license, certificate, registration, or other means to engage in the insurance business regulated by this code.

(3) "Licensee" means any individual or entity, other than a corporation, authorized by a license, certificate, registration, or other means to engage in the insurance business regulated by this code.

(e) The reports required under this section shall be filed on magnetic media or in other machine-readable form, according to standards furnished by the Franchise Tax Board.

(f) The commissioner shall begin providing to the Franchise Tax Board the information required by this section as soon as economically feasible, but no later than July 1, 1987. The information shall be furnished at a time that the Franchise Tax Board may require.

(g) Notwithstanding Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code, the information furnished pursuant to subdivision (a) and subparagraph (C) of paragraph (1) of, and paragraph (2) of, subdivision (c) shall not be deemed to be a public record and shall not be open to the public for inspection.

(h) A deputy, agent, clerk, officer, or employee of the commissioner, or any former officer or employee or other individual, hereinafter "employees," who in the course of the employees' employment or duty has or has had access to the information required to be furnished under this section, shall not disclose or make known in any manner that information, except as provided in this section.

(1) This section shall not prevent an agency from disclosing or making known in any manner that information when the transfer is necessary for the transferee agency to perform its constitutional or statutory duties, and the use is compatible with a purpose for which the information was collected and the use or transfer is accounted for in accordance with Section 1798.25 of the Civil Code.

(2) With respect to information transferred from a law enforcement or regulatory agency, or information transferred to another law enforcement or regulatory agency, a use is compatible if the use of the information requested is needed in an investigation of unlawful activity under the jurisdiction of the requesting agency or for licensing, certification, or regulatory purposes by that agency and on the condition that the law enforcement or regulatory agency requesting the information needed agrees to keep that information confidential in accordance with Section 1798.25 of the Civil Code.

(3) A law enforcement or regulatory agency that requests information from the commissioner shall, upon request, identify for the commissioner the intended use for the information. The commissioner shall have the discretion to determine whether to transfer the information to the law enforcement or regulatory agency and shall not transfer the information if the commissioner determines that the information will be used for an improper purpose.

(i) It is the intent of the Legislature in enacting this section to utilize the social security account number, individual taxpayer identification number, or federal employer identification number for the purpose of establishing the identification of persons affected by state tax laws and, to that end, the information furnished pursuant to this section shall be used exclusively for an agency to perform its constitutional or statutory duties.

(j) This section shall become operative on July 1, 2018.

(Amended by Stats. 2022, Ch. 28, Sec. 118. (SB 1380) Effective January 1, 2023.)

1667. Except as provided in Section 1669, a license shall not be denied without an opportunity to the applicant to be heard in support of his application. When a hearing is held, the proceedings shall be conducted in accordance with Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code.

(Added by Stats. 1959, Ch. 4.)

1668. The commissioner may deny an application for a license issued pursuant to this chapter if any of the following are true:

(a) The applicant is not properly qualified to perform the duties of a person holding the license for which the applicant applied.

(b) The granting of the license will be against public interest.

(c) The applicant does not intend actively and in good faith to carry on as a business with the general public the transactions that would be permitted by the issuance of the license for which the applicant applied.

(d) The applicant is not of good business reputation.

(e) The applicant is lacking in integrity.

(f) The applicant has been refused a professional, occupational, or vocational license or had a professional, occupational, or vocational license suspended or revoked by a licensing authority for reasons that should preclude the granting of the license for which the applicant applied.

(g) The applicant seeks the license for the purpose of avoiding or preventing the operation or enforcement of the insurance laws of this state.

(h) The applicant has knowingly or willfully made a misstatement in an application to the commissioner for a license, or in a document filed in support of that application, or has made a false statement in testimony given under oath before the commissioner or another person acting in the commissioner's stead.

(i) The applicant has previously engaged in a fraudulent practice or act or has conducted any business in a dishonest manner.

(j) The applicant has shown incompetency or untrustworthiness in the conduct of any business, or has by commission of a wrongful act or practice in the course of any business exposed the public or those dealing with the applicant to the danger of loss.

(k) The applicant has knowingly misrepresented the terms or effect of an insurance policy or contract.

(l) The applicant has failed to perform a duty expressly enjoined upon them by this code or has committed an act expressly forbidden by this code.

(m) The applicant has been convicted of any of the following:

(1) A felony.

(2) A misdemeanor specified by this code or other laws regulating insurance.

(3) A public offense having as one of its necessary elements a fraudulent act or an act of dishonesty in acceptance, custody, or payment of money or property.

(n) The applicant has aided or abetted a person in an act or omission that would constitute grounds for the suspension, revocation, or refusal of a license or certificate issued under this code to the person aided or abetted.

(o) The applicant has permitted a person in the applicant's employ to violate this code.

(p) The applicant has violated a law relating to conduct of business that could lawfully be done only under authority conferred by that license.

(q) The applicant has submitted to the commissioner a false or fraudulent certificate pursuant to subdivision (d) of Section 1749.5.

(r) The applicant has been found liable by clear and convincing evidence in a civil action involving allegations of elder or dependent abuse, oppression, fraud, malice, misappropriation or conversion of funds, misrepresentation, or breach of fiduciary duty.

A judgment, plea, or verdict of guilty, or a plea of nolo contendere is deemed to be a conviction within the meaning of this section.

(Amended by Stats. 2021, Ch. 627, Sec. 7. (AB 1511) Effective January 1, 2022.)

1668.1. In addition to the grounds set forth in Section 1668, the following acts shall constitute cause to suspend or revoke any permanent license issued pursuant to this chapter:

(a) The licensee has induced a client, whether directly or indirectly, to cosign or make a loan, make an investment, make a gift, including a testamentary gift, or provide any future benefit through a right of survivorship to the licensee, or to any of the persons listed in subdivision (e).

(b) The licensee has induced a client, whether directly or indirectly, to make the licensee or any of the persons listed in subdivision (e) a beneficiary under the terms of any inter vivos or testamentary trust or the owner or beneficiary of a life insurance policy or an annuity policy.

(c) The licensee has induced a client, whether directly or indirectly, to make the licensee, or a person who is registered as a domestic partner of the licensee, or is related to the licensee by birth, marriage, or adoption, a trustee under the terms of any inter vivos or testamentary trust. However, if the licensee is also licensed as an attorney in any state, the licensee may be made a trustee under the terms of any inter vivos or testamentary trust, provided that the licensee is not a seller of insurance to the trustor of the trust.

(d) The licensee, who has a power of attorney for a client has sold to the client or has used the power of attorney to purchase an insurance product on behalf of the client for which the licensee has received a commission.

(e) Subdivisions (a) and (b) shall also apply if the licensee induces the client to provide the benefits in those subdivisions to the following people:

(1) A person who is related to the licensee by birth, marriage, or adoption.

(2) A person who is a friend or business acquaintance of the licensee.

(3) A person who is registered as a domestic partner of the licensee.

(f) This section shall not apply to situations in which the client is:

(1) A person related to the licensee by birth, marriage, or adoption.

(2) A person who is registered as a domestic partner of the licensee.

(Added by Stats. 2003, Ch. 546, Sec. 4. Effective January 1, 2004.)

1668.5. (a) The commissioner may deny an application for a license issued pursuant to this chapter, and may suspend or revoke the permanent license of an organization licensed pursuant to this chapter as authorized by Section 1738, if the applicant or holder of the permanent license is an organization and a controlling person of the organization is any of the following:

(1) The controlling person has previously engaged in a fraudulent practice or act or has conducted any business in a dishonest manner.

(2) The controlling person has shown incompetency or untrustworthiness in the conduct of any business, or has by commission of a wrongful act or practice in the course of any business exposed the public or those dealing with the controlling person to the danger of loss.

(3) The controlling person has knowingly misrepresented the terms or effect of an insurance policy or contract.

(4) The controlling person has failed to perform a duty expressly enjoined upon them by a provision of this code or has committed an act expressly forbidden by a provision of this code.

(5) The controlling person has been convicted of any of the following:

(A) A felony.

(B) A misdemeanor specified by this code or other laws regulating insurance.

(C) A public offense having as one of its necessary elements a fraudulent act or an act of dishonesty in acceptance, custody, or payment of money or property.

A judgment, plea, or verdict of guilty, or a plea of nolo contendere is deemed to be a conviction within the meaning of this section.

(6) The controlling person has aided or abetted a person in an act or omission that would constitute grounds for the suspension, revocation, or refusal of a license or certificate issued under this code to the person aided or abetted.

(7) The controlling person has permitted a person in the controlling person's employ to violate this code.

(8) The controlling person has violated a law relating to conduct of business that could lawfully be done only under authority conferred by a license under this chapter.

(9) The controlling person has been found liable by clear and convincing evidence in a civil action involving allegations of elder or dependent abuse, oppression, fraud, malice, misappropriation or conversion of funds, misrepresentation, or breach of fiduciary duty.

(b) As used in this section, "controlling person" means a person who possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the organization, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, including, but not limited to, power that is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if a person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, more than 10 percent of the voting securities of the organization. This presumption may be rebutted by a showing that control does not exist in fact. The commissioner may, after furnishing all persons in interest notice and opportunity to be heard, determine that control exists in fact, notwithstanding the absence of a presumption to that effect.

(Amended by Stats. 2021, Ch. 627, Sec. 8. (AB 1511) Effective January 1, 2022.)

1669. The commissioner may, without hearing, deny an application if the applicant has done one or more of the following:

(a) (1) Been convicted of a felony.

(2) Been convicted of a misdemeanor specified by this code or by other laws regulating insurance.

(3) A judgment, plea, or verdict of guilty, or a plea of nolo contendere is deemed to be a conviction within the meaning of this subdivision.

(b) Had a previous application for a professional, occupational, or vocational license denied for cause by a licensing authority, within five years of the date of the filing of the application to be acted upon, on grounds that should preclude the granting of a license by the commissioner under this chapter.

(c) Had a previously issued professional, occupational, or vocational license suspended or revoked for cause by a licensing authority, within five years of the date of the filing of the application to be acted upon, on grounds that should preclude the granting of a license by the commissioner under this chapter.

If the commissioner issues an order based on a plea that does not at any time result in a judgment of conviction, the commissioner shall vacate the order upon petition by the applicant.

(Amended by Stats. 2020, Ch. 184, Sec. 13. (SB 1255) Effective January 1, 2021.)

1670. If an applicant for any license under this chapter, within one year from the date of the receipt by the commissioner of the application, whether or not the filing is complete, or within one year from the date of the issuance to him or her of a certificate of convenience, if any, whichever is the later date, neither fully qualifies for and receives that license on a permanent basis, nor is denied its issue, the application is automatically denied without prejudice to the filing of a new application for the license unless in a proceeding under a statement of issues the commissioner for good cause determines the denial should be set aside or stayed.

(Amended by Stats. 2012, Ch. 786, Sec. 19. (AB 2303) Effective January 1, 2013.)

1672. The commissioner may deny an application filed by an organization, unless both the organization and all natural persons named thereon meet the qualifications for the license for which such application is filed, but the qualifying examination shall be administered only to natural persons. In case the application is for more than one natural person to be named thereon and at least one, but not all, of such persons satisfy the examination requirement, the commissioner may issue such license omitting therefrom the names of the person or persons who fail to satisfy the examination requirement.

(Repealed and added by Stats. 1959, Ch. 4.)